

MINUTES OF THE COMMISSION FOR HUMAN RIGHTS

SEPTEMBER 28, 2006

A regular meeting of the Commission for Human Rights was held in the agency conference room on Thursday, September 28, 2006. Present at the meeting were Commissioners Dr. John Susa, Chair, Alberto Aponte Cardona, Camille Vella-Wilkinson, and Iraida Williams.

Absent were Jean Stover, Alton W. Wiley, Jr. The Chairperson called the meeting to order at 9:30 a.m.

A motion to approve the July 26, 2006 minutes was made by Commissioner Cardona. The motion was seconded by Commissioner Williams and carried.

A motion to approve the special minutes of September 7, 2006 was made by Commissioner Cardona. The motion was seconded by Commissioner Williams and carried.

Status Report: Michael D. Évora, Executive Director-

A written report was handed out. All new information will be in bold print.

Case Production Report - Attached

AGED CASE Report - Attached

Outreach Report - Attached

STATUS REPORT - COMMISSIONERS-

GENERAL STATUS: No report

OUTREACH : Commissioner Cardona reported that Progreso Latino has a new Executive Director, Ramon Martinez. Commissioner Vella-Wilkinson reported that she was invited by Year UP to give sexual harassment training on September 27, 2006. Commissioner Vella-Wilkinson also reported that she developed a Job Diversity Fair for CCRI to be held on October 4, 2006.

Commissioner Meeting -2- September 28, 2006

STATUS REPORT - LEGAL COUNSEL, Cynthia M. Hiatt and Francis Gaschen

LITIGATION: Report attached.

LEGISLATION: No discussion at this time.

REGULATIONS: No discussion at this time.

HEARING SCHEDULE: Discussed

DECISIONS: Commissioners Aponte Cardona, Williams and Vella-Wilkinson discussed Ferschke vs.Tri-Literal and determined that the complainant did not prove discrimination. Legal Counsel will draft a decision and order.

The meeting adjourned at 10:50 a.m. The next regular meet-ing of the Commission is scheduled for Thursday, October 26, 2006 at 8:30 am.

Respectfully Submitted,

**Michael D. Évora
Executive Director**

Notes taken by: B. Ross

**EXECUTIVE DIRECTOR'S
REPORT TO COMMISSIONERS
SEPTEMBER 28, 2006**

I. BUDGET

On September 8, 2006, I submitted the Commission's FY 2007 Revised and FY 2008 Budget Requests to the Governor. The particulars are as follows:

	FY 2007 (Enacted)	FY 2007 (Revised)	FY 2008 (Request)
State	1,027,775	1,038,846	936,493*
Fed.	323,478	286,550	311,111
Total	1,351,253	1,325,396	1,247,604

The Governor's FY 2007 Recommendation, including the proposed reduction of 0.6 FTE, was passed. The Commission did not have the opportunity to present its case against the FTE reduction as the House Finance Committee did not hold a hearing.

*The FY 2008 state revenue request represents a 15% reduction of the adjusted FY 2007 Enacted amount, which was calculated by the Budget Office: FY 2007 Enacted = \$1,027,775; once adjusted for, e.g., COLAs and anticipated changes in retirement rates, the figure is \$1,101,756. Per the Governor's directive, the Budget Office required

each state agency to submit its FY 2008 state revenue request at a 15% reduction of the adjusted amount. ($\$1,101,756 \times 0.85 = \$936,493$.) Approximately 95% of the Commission's annual budget goes toward payroll costs and rent.

II. FEDERAL CONTRACTS

EEOC – As of 9/14/06, according to EEOC Project Director Marlene Toribio, we have closed 245 co-filed cases. We must process 24 co-filed cases in September to meet our FY 2006 modified contract of 269 cases.

HUD – For FY 07, according to HUD Project Director Angela Lovegrove, we have taken in 8 new housing charges, 6 of which are co-filed with HUD. Within this same time period, we have processed at least 5 housing charges, all of which were co-filed with HUD.

III. PERSONNEL

Allison Cote, Sr. Compliance Officer, remains out of work on full Worker's Compensation. Her return date is uncertain.

IV. OUTREACH – Refer to attached report.

V. GENERAL STATUS

Meetings with staff members – I continue to meet with

individual investigative staff members on a monthly basis to monitor case production.

•Case Closures – Refer to attached report.

•Aged Cases – Refer to attached report. Progress continues to be made on decreasing the aged caseload. The Commission successfully reduced the aged caseload by 77% in FY 2005 (from 26 to 6 cases).

•Lease – The Commission's 5-year lease with Dorwest Associates/Capstone Properties is set to expire. Frank Gaschen and I are working with John Ryan, Deputy Chief/Public Buildings, to negotiate the new lease with Dorwest.

•Commissioner (Re)Appointments –On 5/31/06, Commissioner Wiley's reappointment was confirmed by the Senate. The Senate failed to act on Commissioner Susa's reappointment prior to ending its 2006 legislative session.

In early June, the Commission received word that the Governor had submitted the name of Rochelle Lee to the Senate for confirmation to replace Commissioner Stover. On June 22, I accompanied Ms. Lee as she appeared before the Senate Judiciary Committee; the Committee approved her nomination and the matter was forwarded to the full Senate.

The full Senate failed to consider Ms. Lee's nomination before ending

its 2006 session. The nomination remains in limbo and will not be acted upon unless the Senate decides to reconvene.

¶Overall Case Inventory – The Commission had over 1000 cases in its inventory at the end of FY 98. That number has steadily decreased. We ended FY 06 with 387 cases in inventory. As of 9/14/06, we had a total of 372 cases in inventory.

¶Commission-Initiated Charge – The charge of housing discrimination which was filed by me on behalf of the Commission on July 24, 2006, was settled on August 15. Frank Gaschen handled the case and negotiated the settlement. Among the settlement particulars are the following: the respondent will pay a \$1,000 “civil penalty” to a local charitable organization, will post a Commission poster prominently in its offices, and will have all staff members attend a training on fair housing laws to be conducted by Angela Lovegrove. The settlement was made public, per the agreement of the parties, and received coverage in RI Lawyers Weekly, The Providence Journal and The Boston Globe.

Respectfully submitted,

Michael D. Évora
Executive Director

Attachments

To: Commissioners

From: Cynthia Hiatt and Frank Gaschen, Legal Counsels

Re: Litigation

Date: September 28, 2006

Recent developments are in bold.

American Legion Bd. of Gov's. v. American Legion #12

The Board of Governors for the respondent filed a petition for Receivership. The Commission filed a Motion for Relief from Stay of Proceedings so that the Commission and the complainants may file a Petition to Enforce the Decision and Order of the Commission in the matter of Cote, et. al v. American Legion #12. The parties and the Commission may be able to agree on enforcement of the Commission decision. Sales agreement for the property has been signed. Apology for printing in newspaper has been sent to the Receiver for review. Apology to be printed in the South County Times today.

Babbitt v. Crescent Park Manor, et al.

The Commission filed a motion to intervene as a party plaintiff in this case. Plaintiff's counsel had no objection to the motion. The motion was granted. Discovery has commenced.

Bagnall v. RICHR and WLWC et al.

The complainant has appealed the Commission Decision and Order. The Commission filed the administrative record on April 12, 2006. The parties are circulating a briefing stipulation.

Gaffney v Town of Cumberland et al

The respondent appealed the Commission decision. The parties and the Commission filed briefs. The case was assigned to Judge Savage. Judge Savage held a status conference with the attorneys, including Commission counsel, on January 21, 2005. Judge Savage indicated that she was close to issuing a decision but wished to give the parties an opportunity to discuss resolution. After a number of settlement attempts, it did not appear that resolution was near. On 1/4/06, I wrote a letter to the parties stating that if I did not hear from them by 2/6 that the case was close to resolution, I was planning to write Justice Savage to ask her to issue her decision. Not having heard from the parties, on 2/8/06, I wrote Justice Savage and asked her to render her decision as it did not appear to me that the parties would resolve the matter. CMH has drafted a letter asking Justice Savage to consider issuing a decision in the near future because of Mrs. Gaffney's age. It was sent to the complainant's attorney on 8/29/06 so that it can be signed by him and Commission counsel. CP's attorney has not responded as of 9/27/06.

Idowu v. Rhode Island Commission for Human Rights and Cohoes Fashions of Cranston, Inc.

The complainant appealed the Commission Decision and Order. The respondent filed a motion to dismiss the appeal on the grounds that it was filed too late. The Commission filed the administrative record on May 17, 2006. Hearing on the respondent's motion to dismiss was held on June 6, 2006. Judge McGuirl appeared to be ready to rule for the defendants, but offered Mr. Idowu the opportunity to submit more information. He accepted the offer. He retained an attorney who filed a last-minute objection to the motion to dismiss and appeared at the hearing on July 11, 2006. On this date, Judge McGuirl appeared to see the merit of complainant's argument that, even though the decision was dated, the decision did not specifically say that the date was the mailing date. (A party must appeal within thirty days of the mailing date.) However, she did not seem to feel that the document that the complainant filed within thirty-one days of the mailing date was sufficient to constitute a complaint. She will consider the matter and issue a decision on the motion to dismiss from the bench at a later date.

Joint v. DeMarkey and Rhode Island Commission for Human Rights

The individual respondent filed an appeal of the Commission Decision and Order. The Commission issued the decision on attorney's fees. The respondent filed an amended appeal to include its appeal of the Commission Decision on Attorney's Fees. The Commission filed the administrative record. The briefs were filed. The appeal was assigned to Special Magistrate Joseph Keough. He rendered a decision on September 22, 2006. He held for the

Commission on several procedural issues, but reversed the decision, holding that the complainant had not proved sex discrimination. He said that the respondent had waived his right to raise the issue that the charge was not timely filed. He held that the Commission complaint had given the respondent sufficient notice of the charges against him. He overturned the Commission determination that the respondent had discriminated against the complainant because of her sex, holding that it is not sex discrimination if a supervisor terminates an employee because their voluntary sexual relationship has ended. The respondent sent Magistrate Keough a proposed Judgment and Order. There is a procedure for appealing a magistrate's Order to the Superior Court for review by a Superior Court judge. The time period for that appeal is short (48 hours), so the Commission filed that appeal on September 27. The matter is scheduled to be heard on the Formal and Special Cause calendar on October 4, 2006.

King v. City of Providence Police Dept.

This is a case in which the Commission issued a decision finding that the City of Providence had denied Mr. King a position as a police officer because of his age. The Commission had not yet determined damages when the FUD's decision came down, so the Commission decision was not final and the respondent had the opportunity to have the case heard in Superior Court. The respondent elected to have the matter heard before the Superior Court. Ms. Hiatt has been

subpoenaed to testify at the trial. Mr. King is seeking another continuance on the grounds of his health.

Laboy v. Stat Health Services

Counsel is trying to locate respondent's officers in order to ensure compliance with the Commission Decision and Order.

Ponte v. GTECH

The plaintiff filed a records subpoena for her case file, several named case files and any other disability charges against GTECH. The Commission provided copies of the complainant's cleared file. The Commission objected to providing any other records on the grounds that such dissemination would violate the Health Care Confidentiality Act and that redaction of the health care information would be burdensome. The plaintiff filed a motion to compel the Commission to produce the records. The Commission objected. The hearing on the motion was held on September 27. The motion of the plaintiff was granted, subject to substantial conditions for the Commission. An Order will be entered this week.

RICHR and Rossi v. Attruia

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-29-05. Judgment entered against Defendant. Six payments on the judgment have been made on schedule.

RICHR and Powell v. Cinotti

The respondent elected to have this housing matter resolved outside of the Commission. A notice was sent to the complainant regarding the election and he was advised of his rights and responsibilities. Suit was filed on behalf of the complainant and a copy of the complaint was sent to the attorney for the respondents who agreed to accept service. The Commission agreed to extend time for the respondents to answer the complaint. Answer filed and discovery to commence. Scheduling depositions of witnesses is ongoing. An offer of compromise has been made by respondents and sent to Powell.

RICHR and Lovegrove v. Escolastico

Default was entered against the defendant. Judgment was obtained and sent to FL lawyer for collection. FL atty. is moving to have FL courts give full faith and credit to the decision of our Superior Court.

RICHR and Scurry v. C & H Investments, et al.

The defendants were defaulted and judgment entered. Judgment was obtained and sent to FL lawyer for collection. FL atty. is moving to have FL courts give full faith and credit to the decision of our Superior Court.

RICHR and Solis v. Lombardo

A petition to enforce the Decision of the Commission was filed. The

complainant was paid and we have negotiated resolution of the relief to the Commission. Follow-up sent to respondent's attorney regarding compliance. Waiting for complete compliance. Complete compliance; case closed.

RICHR and Morin v. Teofilo Silva, et al.

A complaint for enforcement, together with a Request for Production and Request for Admissions, was filed on 3-24-05. Service of the complaint will be made once respondent can be located. Motions for extended time within which to serve and for special service were filed. The motions were granted. Service has not been perfected yet.

RICHR and Zeigler v. Laura Sitrin, Finance Director of the City of Newport

Case resolved. Commission must annually monitor City training.

RICHR v. Warner, et al.

Superior Court action filed on behalf of RICHR as complainant declined to sue. Case settled. Awaiting final documentation.

Tucker v. Blue Cross

The complainant filed an administrative appeal of the Commission's finding of no probable cause. The administrative record was filed in Court.

NO pending subpoena hearings scheduled.